

“...the work performed by the international broadcasting entities...can hardly be described as a typical government function. Cynics may deride their work as ‘propaganda,’ but in fact the broadcasters are journalists, reporting the news of the United States and the world to foreign audiences. The news gathering and reporting functions of the broadcasters must continue to be independent and objective. The broadcasters themselves understand the importance of this imperative.”

U.S. House. Foreign Affairs Reform and Restructuring Act, Conference Report (to Accompany H.R. 1757). (105 H.Rpt. 432).

USAGM’s Editorial Independence

The editorial independence of the journalists and broadcasters at USAGM’s networks is a bedrock principle. This independence is enshrined in both law and practice, including by a legislated firewall protecting the professional independence and integrity of our broadcasters, their content, and staff from government interference. This structure, combined with USAGM’s commitment to supporting freedom of expression and information as universal human rights, ensure that its networks operate as public service media organizations, similar to the BBC or NPR.



THE FIREWALL EXPLAINED

An essential guarantee of the journalistic credibility of USAGM’s networks is the firewall. The networks enjoy full editorial autonomy, free of influence from other U.S. government entities and authorities, to include the USAGM CEO and the Secretary of State. The International Broadcasting Act of 1994 (22 U.S.C. §§ 6201 et seq.), as amended, the agency’s authorizing legislation, contains provisions which establish this autonomy and protect the complete professional editorial independence of USAGM and its networks. These provisions, referred to as the firewall in the legislative history of the Act, are a recognition by Congress of the “need for journalists and broadcasters to maintain their professional independence in order to produce factual, unbiased and balanced work products.”

Within any credible news organization, a firewall exists between those carrying out the journalism, including journalists and editors (often referred to as the “newsroom”) and everyone else in the organization. For purposes of USAGM, this firewall is understood to protect against those outside the newsroom from interfering with the independent editorial decisions of the Network. In other words, it protects against influence that would undermine the journalistic and editorial independence, and thus the credibility, of a USAGM network.

KEY PROVISIONS OF LAW

- 22 USC 6204(b), requires the CEO and Secretary of State to “respect the professional independence and integrity” of VOA, OCB, RFE/RL, RFA, and MBN.
- 22 USC 6202(a)(5), requires that agency programming meet the “highest professional standards of broadcast journalism”
- 22 USC 6202(b)(1), requires that agency news broadcasts be “consistently reliable and authoritative, accurate, objective, and comprehensive.”
- S. Rep. 103-107 (to accompany S. 1281) July 23, 1993 “protects the independence and journalistic integrity of the broadcasting entities.”
- S. Rep. 103-107 (1993) “secures the professional independence and integrity of [the agency’s] broadcasting services.”

JOURNALISTIC STANDARDS & THE FIREWALL

The firewall is critical to ensuring that the editors, reporters, and other journalists make the final decisions on what stories to cover and how they are covered, and that those decisions are ultimately governed by the highest standards of professional journalism, as required by law.

To that end, all USAGM employees, regardless of their roles, and including the CEO, are required to take training that explains the legal and operational role of the firewall. Additionally, the firewall is enforced as part of the broader set of professional standards that are required of all USAGM networks’ journalists and are codified in each network’s journalistic standards. These standards reflect the best practices of the highest quality of journalism across the industry.

USAGM’s journalistic standards have teeth: conduct involving violations of these standards have resulted in the suspension and even termination of employees.

As appropriate, if its programming is called into question, USAGM may consult with independent journalism experts to produce independent analyses of whether the network has followed the highest standards of professional journalism, including implementing the expert recommendations.

The firewall is not meant to discourage USAGM journalists from interviewing government officials, or USG officials from appearing on USAGM programs. It is, however, central to the credibility of its networks, and notably differentiates the agency from state-sponsored propaganda operations.

Together, USAGM’s journalistic standards and statutorily mandated firewall reinforce one another, enabling its journalist workforce to produce authoritative, accurate, objective, and award-winning journalism free from undue political interference.

FIREWALL RULE

Historically, a bipartisan Board also served as a guarantor of this independence by serving as a physical firewall around the agency. However, changes to the agency’s authorization act under the 2017 National Defense Authorization Act (NDAA), removed this additional layer of protection. To protect against this loss, the agency codified a specific rule detailing the operation of the firewall. This rule is currently codified in an agency guidance, appearing in Part II, section 531 of the USAGM Broadcasting Administrative Manual. (See attached). The agency is awaiting the results of an independent review looking at ways in which the firewall may be further strengthened, and it intends to republish the Firewall Rule in the Federal Register and the Code of Federal Regulations. Furthermore, language incorporated into the conference report accompanying the Appropriation Act currently governing the agency calls upon the agency to comply with this rule.

Effective Date: Having been passed by the Broadcasting Board of Governors (hereafter “the Board”), these regulations are effective upon the Agency as of June 4, 2020. The Board directed staff to codify these regulation by publication in the Federal Register. Those provisions pertaining to non-supervisory employees deemed subject to collective bargaining requirements set forth under the Federal Service Labor-Management Relations Statute and the Agency’s negotiated labor-management agreements would only become effective subject to the terms and conditions within those bargaining agreements.

TITLE 2 GENERAL ADMINISTRATION, PART 531— STATUTORY FIREWALL AND HIGHEST STANDARDS OF PROFESSIONAL JOURNALISM

Sections

531.1 Overview

531.2 Independence and Best Practices

531.3 Firewall

531.4 Definitions

531.1 Overview: The Broadcasting Board of Governors, referred to as the U.S. Agency for Global Media (USAGM), per §305(a)(22) of the IBA, currently provides public funds to five news media networks: the Voice of America (VOA), Radio Free Europe, Radio Liberty (RFE/RL), Radio Free Asia (RFA), the Middle East Broadcasting Networks (MBN), and the Office of Cuba Broadcasting (OCB). Pursuant to International Broadcasting Act of 1994, as amended (22 U.S.C. 6201 et seq.) (“the IBA” or “the Act”), and other applicable authorities:

- (a) All USAGM-funded Networks must adhere to the highest professional standards of journalism, pursuant to §303(a)(5) of the IBA, in order to produce news which is consistently reliable and authoritative, accurate, objective, and comprehensive, per §303(b) of IBA. Accordingly, USAGM networks necessarily enjoy full editorial independence in order to maintain their “professional independence and integrity,” per §305(b) of the IBA. This statutorily mandated firewall protects the independence of the networks by insulating their editorial decisions from interference from those outside of the network, or from impermissible considerations, as set forth herein.
- (b) The existence of a firewall does not mean the absence of oversight. This firewall shall not be construed to limit USAGM oversight conducted in a manner consistent with that conducted by other media organizations which operate editorially independent news divisions that adhere to the highest standards of journalism; nor does it prevent federal officials from treating the networks like any other news organization: e.g., they may seek a correction; provide an interview; serve as a source; or otherwise interact in the same manner as they do with any other news organization.
- (c) Editorial independence and adherence to the highest standards of professional journalism do not prevent VOA from adhering fully to each of the elements of its Charter. The VOA Charter, currently codified at §303(c) of the IBA, states that VOA will serve as a consistently reliable and authoritative source of news, which itself will be accurate, objective, and comprehensive; represent America as a whole, and thereby present a

balanced and comprehensive projection of significant American thought and institutions; and present the policies of the United States clearly and effectively, as well as responsible discussions and opinion on such policies. Editorial independence and adherence to the highest standards of professional journalism, as described herein, allow for audiences to rely on VOA to be truthful and accurate. Accordingly, these principles are considered essential to meeting the Charter's mandate that "to be effective, the Voice of America must win the attention and respect of listeners" per § 303(c) of the IBA; S. Rep. No. 703, 94 Cong., 2nd Sess. 15 (1976), reprinted in 1976 U.S.C.C.A.N. 1555, 1569; and H.R. Conf. Rep. No. 432, 105 Cong., 2nd Sess. 127 (1998).

- (d) Editorial independence and adherence to the highest standards of professional journalism do not preclude any news organization from publishing editorials or opinion pieces, clearly marked as such; as described in paragraph 531.2(d)(5) below, VOA is required to carry editorials which present the views of the U.S. Government.

531.2 Independence and Best Practices:

- (a) USAGM-funded networks each enjoy full editorial independence, as that term is defined and understood by best practices of journalism.
- (b) Editorial independence includes, but is not limited to the fact that only individuals within the network may make any decisions with respect to newsgathering or reporting. USAGM networks and their employees, including the heads of each network, are fully insulated from any political or other external pressures or processes that would be inconsistent with the highest standards of professional journalism.
- (c) The heads of each network, and everyone else therein, are required at all times to adhere to the highest professional standards of journalism, and must take that into account when carrying out all their responsibilities. The highest professional standards of journalism also require that all elements of newsgathering, editing, and reporting are carried out by professional journalists trained in and held to the highest industry standards.
- (d) Each network is required to establish and maintain written rules setting forth the journalistic best practices for their organization, based upon the highest professional standards of professional journalism. These best practices also preclude any journalist or other covered individuals at a network, including the heads of the networks, from engaging in any activity that would call into question their neutrality or impartiality.

531.3 Firewall:

- (a) A statutory 'firewall,' provided for in §305(b) of the IBA, and incident to adherence to the highest professional standards of broadcast journalism, exists around USAGM-funded networks, their products, and staff in order to protect their "professional independence and integrity."

- (b) Within any credible news organization, a firewall exists between anybody involved with any aspect of journalism (e.g., the creation, editing, reporting, distributing, etc., of content) and everyone else in the organization. For purposes of USAGM, firewalls exist between the newsroom of a USAGM-network; everyone else in the organization; and the Executive Branch of the U.S. Government, as described herein.
- (c) This “firewall” is understood to be violated when any person within the Executive Branch or a Network, but outside the newsroom, attempts to direct, pressure, coerce, threaten, interfere with, or otherwise impermissibly influence any of the USAGM networks, including their leadership, officers, employees, or staff, in the performance of their journalistic and broadcasting duties and activities. It is also violated when someone inside the newsroom acts in furtherance of or pursuant to such impermissible influence. Such impermissible influence would undermine the journalistic and editorial independence, and thus the credibility, of that USAGM network, and their reporters, editors, or other journalists.
- (d) The firewall is critical to ensuring that the editors, reporters, and other journalists of the USAGM network make the decisions on what stories to cover and how they are covered, and that those decisions are ultimately governed by the highest standards of professional journalism.
- (e) What the firewall is not.
 - (1) The firewall is not meant to discourage journalists from interviewing U.S. Government officials or to discourage such officials from appearing on USAGM-funded programs.
 - (2) The firewall does not prevent officers or employees within the Executive Branch, including the State Department, from engaging with or speaking about USAGM networks as they might with any other news organization. Such interaction could include but is not limited to:
 - (i) publicly or privately commenting on USAGM stories;
 - (ii) publicly or privately reaching out to journalists in the same manner that they would do with any other journalist;
 - (iii) publicly or privately reaching out to network staff in the same manner that they would do with any other network staff; and
 - (iv) otherwise interacting with journalists and other network staff in the same manner that they would do with such staffs’ private sector counterparts.
 - (3) The firewall does not prevent a USAGM CEO, Network Head, or Board from undertaking the same type of direction and oversight that those in equivalent leadership positions in or overseeing other reputable news organizations may provide, in a manner consistent with the highest standards of professional journalism.

- (4) In determining which languages to broadcast, the Agency has prioritized certain countries and audiences, such as those under authoritarian rule. The firewall does not prevent the USAGM CEO or Board from otherwise prioritizing certain audiences or languages, consistent with the statutory language service review that is carried out per IBA §305(a)(4) to determine whether the continued broadcasting in various languages are furthering the mission of the networks, and per IBA §303(a)(1), are thus consistent with the broad foreign policy objectives of the United States.
- (5) Per IBA §303(b)(3), the firewall does not prohibit the publication of editorials and other opinion pieces by U.S. Government officials, marked clearly as such, on VOA, expressing policy positions of the U.S. Government.

531.4 Definitions

- (a) *Audience* or *audiences*: refers to foreign audiences overseas, the only audiences to which USAGM is authorized to seek to reach; USAGM or its networks are not authorized to target audiences in the United States, and must take steps set forth in law and regulation to avoid these audiences.
- (b) *Board*: refers to the Board of a Network; or the Advisory Board.
- (c) *everyone else in the organization*: in describing a USAGM Network, refers to anyone within a Network who, pursuant to the structure of that Network or the highest standards of professional journalism, would be considered to not be part of the newsroom, i.e., involved with carrying out any aspect of journalism (e.g., the creation, editing, reporting, distributing, etc., of content), and thus outside the firewall. By definition the USAGM CEO is not within a Network.
- (d) *Network, USAGM-funded Network, or USAGM Network*: refers to the Voice of America (VOA), Radio Free Europe, Radio Liberty (RFE/RL), Radio Free Asia (RFA), the Middle East Broadcasting Networks (MBN), and the Office of Cuba Broadcasting (OCB); or any other network, broadcaster, or grantee which falls under the Act, or is overseen by USAGM or a USAGM network. It does not include any officer or employee of USAGM not within VOA or OCB, including the Advisory Board or the Chief Executive Officer.
- (e) *newsroom*: refers to the news division of a USAGM-Network. The scope of the news division depends on the structure of the Network. Depending how a Network is organized the head of that Network may or may not be considered to be within the news division. The Board of a Network is considered to be outside the news division. Those within the news division must adhere to the highest professional standards of journalism in carrying out their responsibilities. Even if outside the newsroom, as set forth herein, the head of a network is still required to act in accordance with the highest standards of professional journalism in carrying out their roles with respect to the journalism, and thus ensuring the professional “independence and integrity” of the network.

- (f) *highest professional standards of journalism*: means the highest professional standards in the field of journalism. Each network is required to promulgate, maintain, and abide by a code of journalistic ethics and best practices that fully comports with the highest professional standards in the field of journalism, a violation of which is required to be reported to the Congress, per a recurring provision of the Agency's annual appropriation act.
- (g) *highest standards*: unless otherwise indicated, refers to "highest professional standards of journalism"
- (h) *other applicable authorities*: includes the Radio Broadcasting to Cuba Act (22 U.S.C. 1465 et seq.); the Television Broadcasting to Cuba Act (22 U.S.C. 1465aa et seq.); the United States Information and Educational Exchange Act of 1948 (22 U.S.C. 1431 et seq.).
- (i) *reputable news organization*: a news organization that adheres to the highest professional standards of journalism and has a firewall which insulates the news side of the operation, to ensure that editorial decisions are not influenced in a manner or by factors inconsistent with the highest standards of professional journalism.
- (j) *USAGM CEO* or *CEO*: refers to the CEO authorized under IBA §304. Until such time as the first Presidentially nominated, senate confirmed CEO is appointed, USAGM CEO shall also refer to the Federal Board.